UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,573	07/13/2001	John Aram Safa	SWIN 2275	2842

7812 7590 01/11/2005	EXAMINER
SMITH-HILL AND BEDELL	HENNING, MATTHEW T

12670 N W BARNES ROAD	ART UNIT	PAPER NUMBER
SUITE 104	2131	
PORTLAND, OR 97229		

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 July 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *13 July 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☒ All b)☐ Some * c)☐ None of:

  1.☒ Certified copies of the priority documents have been received.

  2.☐ Certified copies of the priority documents have been received in Application No. _____.

  3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
  application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date *10/15/01 11/06/02*.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

This action is in response to the communication filed on 7/13/2001.

DETAILED ACTION

1.   Claims 1-26 have been examined.

Title

2.   The title of the invention is not descriptive. A new title is required that is clearly

indicative of the invention to which the claims are directed.

Priority

3.   The application has been filed under Title 35 U.S.C §119, claiming priority to United

Kingdom Application number 0017478.9, filed July 18, 2000.

4.   The effective filing date for the subject matter defined in the pending claims in this

application is July 18, 2000.

Information Disclosure Statement

5.   The information disclosure statements (IDS) submitted on 10/15/2001 and 11/06/2002

are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering

the information disclosure statements.

Drawings

6.   The drawings filed on 07/13/2001 are acceptable for examination proceedings.

Specification

7.   Applicant is reminded of the proper language and format for an abstract of the disclosure.

*The abstract should be in narrative form and generally limited to a single paragraph on
a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed
150 words in length since the space provided for the abstract on the computer tape used by the
printer is limited. The form and legal phraseology often used in patent claims, such as "means"
and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist
readers in deciding whether there is a need for consulting the full patent text for details.*

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

8.   The abstract of the disclosure is objected to because

Line 1: "Computer Software Installation (Fig. 3a)" must be removed, as it is not a proper

heading for the Abstract of the Disclosure.

Correction is required. See MPEP § 608.01(b).

9.   The specification is objected to for failing to provide proper headings for each section.
See MPEP § 608.01(a).

Claim Rejections - 35 USC § 112

10.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11.   Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing

to particularly point out and distinctly claim the subject matter which applicant regards as the

invention. Claim 5 recites the limitation "the address table" in line 2. There is insufficient

antecedent basis for this limitation in the claim. For purposes of searching prior art, the

examiner will presume that the limitation was meant to read "an address table".

Claim Rejections - 35 USC § 101

12.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

13.   Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to

non-statutory subject matter. Claims 1-9 are merely directed towards software and include no

statutory limitations. Therefore, claims 1-9 are non-statutory and fail to meet the requirements of

35 U.S.C. 101.

Claim Rejections - 35 USC § 102

14.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> *A person shall be entitled to a patent unless –*
>
> *(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

15.   Claims 1, 3-6, 9-17, 20-21, 23-24, and 26 are rejected under 35 U.S.C. 102(e) as being

anticipated by Altberg et al. (US Patent Number 6,353,928) hereinafter referred to as Altberg.

16.   Regarding claim 1, Altberg disclosed computer software which includes an executable

program which requires access to at least one sub-routine during execution (See Altberg

Abstract), the software further including the or each of the sub-routines in encrypted form (See

Altberg Col. 7 Lines 16-25), and further including a decryption routine operable to convert the

encrypted sub-routines to an executable form, at least when access is required (See Altberg Col.

7 Lines 16-25, Claim 8 and Fig. 3).

17.   Regarding claim 3, Altberg disclosed that the decryption routine makes an entry in an

address table to identify the location of a recreated sub-routine, the address table being accessible

by the program for locating sub-routines for access when required (See Altberg Col. 5 Paragraph

3 wherein Altberg states that the files are placed in predetermined locations, all known by the

application, the shared library DLL and the installer module, and therefore it was inherent that

the location of the required files was placed in an address table in order for the locations to have

been known).

18.   Regarding claim 4, Altberg disclosed that the decryption routine is operable to detect the

presence of a sub-routine already available within a system running the software, and to cause

the executable program to use a sub-routine if already available (See Altberg Col. 7 Paragraphs

3-4).

19.   Regarding claim 5, Altberg disclosed that the decryption routine is operable to

incorporate within the address table an address for a sub-routine already available, whereby

decryption of a further copy of the sub-routine is not required (See Altberg Col. 7 Lines 16-35

and Col. 5 Paragraphs 3-4).

20.   Regarding claim 6, Altberg disclosed that the decryption routine is operable to

discriminate between different versions of a sub-routine, whereby to decrypt an encrypted

version in the event that only a different version is available within the system (See Altberg Col.

3 Lines 37-44).

21.   Regarding claim 9, Altberg disclosed that encryption and decryption include or consist of

compression or decompression techniques (See Altberg Col. 7 Paragraph 3).

22.   Regarding claims 10-11, Altberg disclosed a computer readable medium, having a

program recorded thereon, wherein the program comprises the computer software (See Altberg

claims 1-14) and a computer system comprising processing means operable to execute software,

and at least one piece of the computer software (See Altberg claims 19-21).

23.   Regarding claim 12, Altberg disclosed a computer system operable to execute an

executable program, the system including: first store means containing computer readable code

representing the executable program (See Altberg Fig. 1 Elements 27 and 36); loading means

operable to load the code for execution (See Altberg Fig. 1 Elements 22 and 36 wherein it was

inherent that the code was loaded into RAM); identifying means operable to identify any sub-

routines required by the executable program during execution thereof (See Altberg Fig. 3 Step

310 wherein it was inherent that the required files were identified prior to verifying their

existence); second store means containing computer readable code representing the or each sub-

routine identified by the identifying means (See Altberg Fig. 2 Element 220 File 1 – File N); and

second loading means operable to load from the second store means the or each sub-routine in

the event that the sub-routine is not available elsewhere within the system (See Altberg Fig. 3

Step 320).

24.   Regarding claim 13, Altberg disclosed that the identifying means and second loading

means are operated on each occasion that execution of the executable program is initiated,

whereby to make the sub-routines available on each occasion (See Altberg Fig. 3 and Col. 6 Line

50 – Col. 7 Line 54).

25.   Claim 14 is rejected for the same reasons as claim 3 above.

26.   Claim 15 is rejected for the same reasons as claim 4 above.

27.   Claim 16 is rejected for the same reasons as claim 5 above.

28.   Claim 17 is rejected for the same reasons as claim 6 above.

29.   Claim 20 is rejected for the same reasons as claim 9 above.

30.   Regarding claim 21, Altberg disclosed a method of installing a piece of computer

software, comprising: installing an executable program of the type which requires access to at

least one sub-routine during execution (See Altberg Abstract); decrypting an encrypted copy of

the sub-routine (See Altberg Col. 7 Lines 16-23); and installing the decrypted copy for access by

the executable program (See Altberg Col. 7 Lines 23-25).

31.   Regarding claim 23, Altberg disclosed that the method further comprises the steps of

identifying any sub-routines already installed and available to the executable program, and

decrypting and installing only the or any required sub-routine which is not so available (See

Altberg Fig. 3).

32.   Claim 24 is rejected for the same reasons as claim 6 above.

33.   Claim 26 is rejected for the same reasons as claim 9 above.

Claim Rejections - 35 USC § 103

34.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> *(a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived
> by the manner in which the invention was made.*

35.   Claims 2 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altberg

as applied to claims 1 and 21 above, and further in view of Glover (US Patent Number

6,052,780).

Altberg disclosed checking for the required files each time the application was run (See Altberg Fig. 3 and related specification), but Altberg failed to disclose recreating the required files each time the application was run.

Glover teaches that in order to protect applications from being copied, certain parts of the application should be encrypted and each time the software is run the parts should be decrypted and further destroyed when the application terminates (See Glover Col. 3 Paragraph 3 and Col. 10 Paragraph 3).

It would have been obvious to the ordinary person skilled in the art at the time of invention to employ the teachings of Glover in the installation program of Altberg by deleting the required files after the application completed and recreating them when the application was executed. This would have been obvious because the ordinary person skilled in the art would have been motivated to secure the application against pirating.

36.   Claims 7-8, 18-19, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altberg as applied to claims 1, 12, and 21 above, and further in view of Shen (US Patent Number 6,611,850).

Altberg teaches a providing a copy of the application (See Rejection of claim 12 above) but failed to disclose providing an encrypted backup copy of the application to be decrypted and installed in the event that the original application was missing or determined to be corrupt.

Shen teaches a method for protecting files by providing a backup encrypted copy of the file which is decrypted in the event that that original file is missing or corrupt (See Shen Col. 3 Lines 5-24).

It would have been obvious to the ordinary person skilled in the art at the time of invention to employ the teachings of Shen in the installation system of Altberg by creating an encrypted backup file of the application and using the backup to restore the application in the event that the file was found to be missing or corrupt. This would have been obvious because the ordinary person skilled in the art would have been motivated to provide protection against accidental deletion of the application, malfunction, or infection by a computer virus.

Conclusion

37.   Claims 1-26 have been rejected.

38.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

   a.   Cina, Jr. (US Patent Number 4,930,073) disclosed a method for checking the version of a stored program in order to prevent the use of an incorrect version.

   b.   Hammond (US Patent Number 5,974,470) disclosed a system for managing different versions of DLLs.

Please direct all inquiries concerning this communication to Matthew Henning whose

telephone number is (571) 272-3790. The examiner can normally be reached Monday-Friday

from 9am to 4pm, EST.

If attempts to reach examiner by telephone are unsuccessful, the examiner's acting

supervisor, Ayaz Sheikh, can be reached at (571) 272-3795. The fax phone number for this

group is (703) 305-3718.

Any inquiry of general nature or relating to the status of this application or proceeding

should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Matthew Henning
Assistant Examiner
Art Unit 2131
1/5/05

AYAZ SHEIKH
1/6/05